

Introduced by Senator Bowen

February 19, 2004

An act to amend Section 25354.5 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1570, as introduced, Bowen. Controlled substances: removal actions.

Existing law requires the Department of Toxic Substances Control to take removal actions with respect to a hazardous substance that is an illegal controlled substance, including waste material from the unlawful manufacture of a controlled substance. The department is required to take specified actions upon the request of the local environmental health officer. The department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose and to adopt regulations to implement these provisions, in consultation with appropriate law enforcement and local environmental agencies.

This bill would require the department, on or before January 1, 2006, to adopt regulations, in consultation with the Office of Environmental Health Hazard Assessment, to provide state and local agencies with standards and procedures for taking a remedial action at such a hazardous substance release site, including providing for a level of cleanup that would protect the health and safety of the future occupants of the site.

The bill would additionally authorize the designated local response agency to make this request to the department and would also make conforming changes.



Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25354.5 of the Health and Safety Code
2 is amended to read:
3 25354.5. (a) Any state or local law enforcement officer or
4 investigator or other law enforcement agency employee who, in
5 the course of an official investigation or enforcement action
6 regarding the manufacture of any illegal controlled substance,
7 comes in contact with, or is aware of, the presence of a substance
8 that the person suspects is a hazardous substance at a site where an
9 illegal controlled substance is or was manufactured, shall notify
10 the department for the purpose of taking removal action, as
11 necessary, to prevent, minimize, or mitigate damage that might
12 otherwise result from the release or threatened release of the
13 hazardous substance, except for samples required under Section
14 11479.5 to be kept for evidentiary purposes.
15 (b) (1) Notwithstanding any other provision of law, upon
16 receipt of a notification pursuant to subdivision (a), the department
17 shall take removal action, as necessary, with respect to any
18 hazardous substance that is an illegal controlled substance, a
19 precursor of a controlled substance, a material intended to be used
20 in the unlawful manufacture of a controlled substance and any
21 container for such a material, a waste material from the unlawful
22 manufacture of a controlled substance, or any other item
23 contaminated with a hazardous substance used or intended to be
24 used in the manufacture of a controlled substance. The department
25 may expend funds appropriated from the Illegal Drug Lab Cleanup
26 Account created pursuant to subdivision (e) to pay the costs of
27 removal actions required by this section. The department may
28 enter into oral contracts, not to exceed ten thousand dollars
29 (\$10,000) in obligation, when, in the judgment of the department,
30 immediate corrective action to a hazardous substance subject to
31 this section is necessary to remedy or prevent an emergency.
32 (2) The department shall, as soon as the information is
33 available, report the location of any removal action that will be
34 carried out pursuant to paragraph (1), and the time that the removal
35 action will be carried out, to the local environmental health officer



1 *or designated local response agency* within whose jurisdiction the
2 removal action will take place, if the local environmental officer
3 *or designated local response agency* does both of the following:

4 (A) Requests, in writing, that the department report this
5 information to the local environmental health officer *or*
6 *designated local response agency*.

7 (B) Provides the department with a single 24-hour telephone
8 number to which the information can be reported.

9 (c) (1) For purposes of Chapter 6.5 (commencing with Section
10 25100) or this chapter, any person who is found to have operated
11 a site for the purpose of manufacturing an illegal controlled
12 substance or a precursor of an illegal controlled substance is the
13 generator of any hazardous substance at, or released from, the site
14 that is subject to removal action pursuant to this section.

15 (2) During the removal action, for purposes of complying with
16 the manifest requirements in Section 25160, the department, the
17 county health department, the local environmental health officer,
18 *or designated local response agency*, or their designee may sign
19 the hazardous waste manifest as the generator of the hazardous
20 waste. In carrying out that action, the department, the county
21 health department, the local environmental health officer, *or*
22 *designated local response agency*, or their designee shall be
23 considered to have acted in furtherance of their statutory
24 responsibilities to protect the public health and safety and the
25 environment from the release, or threatened release, of hazardous
26 substances, and the department, the county health department, the
27 local environmental health officer, *or designated local response*
28 *agency*, or their designee are not responsible parties for the release
29 or threatened release of the hazardous substances.

30 (3) The officer, investigator, or agency employee specified in
31 subdivision (a) is not a responsible party for the release or
32 threatened release of any hazardous substances at, or released
33 from, the site.

34 (d) ~~The~~ (1) *Except as provided in paragraph (2), the*
35 department may adopt regulations to implement this section in
36 consultation with appropriate law enforcement and local
37 environmental agencies.

38 (2) *On or before January 1, 2006, the department shall adopt*
39 *regulations, in consultation with the Office of Environmental*
40 *Health Hazard Assessment, to provide state and local agencies*

1 *with procedures and standards for taking remedial actions with*
2 *respect to any hazardous substance release that is an illegal*
3 *controlled substance, a precursor of a controlled substance, a*
4 *material intended to be used in the unlawful manufacture of a*
5 *controlled substance, or a waste material from the unlawful*
6 *manufacture of a controlled substance. The procedures and*
7 *standards shall assure that the site of the release is cleaned to a*
8 *level that the department determines would adequately protect the*
9 *health and safety of all future occupants of the site.*

10 (e) The Illegal Drug Lab Cleanup Account is hereby created in
11 the General Fund and the department may expend any money in
12 the account, upon appropriation by the Legislature, to carry out the
13 removal actions required by this section. The account shall be
14 funded by moneys appropriated directly from the General Fund.

15 (f) The responsibilities assigned to the department by this
16 section apply only to the extent that sufficient funding is made
17 available for that purpose.

